

Leo W. Desmond
Attorney & Counselor At Law

5070 Highway A1A
Suite D
Vero Beach, Florida 32963

(772) 234-5150
Facsimile (772) 234-5231

April 30, 2014

Hon. Jesse M. Furman, USDJ
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: Peconic Aviation, LLC v. Garrett, et al.
Case No. 1:13-CV-09142

Dear Judge Furman:

In accordance with Your Honor's Notice of Initial Pretrial Conference dated January 9, 2014 [DE 2], the parties have met and conferred on the issues raised herein via emails and telephone conferences, and jointly state:

1. The matter before the Court is an action for violations of the *Securities Act of 1933* (*Sections 12(a)* and *15 (a)*); common law fraud; breach of contract; and negligent misrepresentation as against Robert Garrett, Jr. and JetLink USA, LLC. The Complaint also contained a claim of breach of fiduciary duty as against Matthew S. Cohen.

The principal defenses to Plaintiff's allegations are: Lack of Jurisdiction and/or venue; Failure to state a claim upon which relief can be granted; Statute of Limitations; Actions of defendants not proximate cause of plaintiff's loss; Defendant's statements were not false or deliberate illegal behavior and were genuinely believed when made as confirmed by Defendant Garrett's substantial investment of his own and family money both prior to and subsequent to Plaintiff's investment; and Plaintiff was a sophisticated investor familiar with the aviation industry.

2. Plaintiff alleges that this Court has subject matter jurisdiction over this action pursuant to *28 U.S.C. §1331* and *Section 22(a)* of the *Securities Act* (*15 U.S.C. §77v(a)*). The Court maintains supplemental jurisdiction over the common law claims pursuant to *28 U.S.C. §1367(a)*.

Alternatively, the Court has jurisdiction pursuant to 28 U.S.C. §1332 as there is a diversity between the citizenship of the Plaintiff and each Defendant. Peconic Aviation, LLC is a Florida Limited Liability Corporation whose principal place of business is Vero Beach, Florida. The state of citizenship of each of the owners of Peconic Aviation, LLC is Seaward Corporation (Delaware), and Seaco Aviation (Delaware), both wholly owned by Warren L. Schwerin, a resident of Florida.

The amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00.

Venue is proper because Robert Garrett, Jr. and JetLink USA reside in or conduct business within the District. Plaintiff contends that the parties contractually agreed to apply "the internal laws of Delaware" and that any "proceeding arising out of or relating to (the Purchase) Agreement be exclusively in State or Federal Court located in New York County in the State of New York...".

Defendants Robert Garrett, Jr. and JetLink, USA, LLC submit that the parties contractually agreed to apply "the internal Laws of the State of New York" and to "exclusive jurisdiction of the State and Federal Courts located in Suffolk County, New York". Defendants JetLink and Garrett reserve their right to amend their Answer to address this conflict.

3. At this time there are no existing deadlines, due dates, and cutoff dates apart from the filing of this joint letter by May 1, 2014.

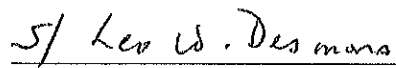
4. At this time there are no outstanding motions in this case.

5. At this time no discovery has taken place. Except prior to the commencement of the action defendant JetLink supplied various documents to Plaintiff at the request of Plaintiff's Counsel. Plaintiff believes that substantial discovery will need to take place prior to the parties engaging in any meaningful settlement negotiations. Defendants believe they will need until November 1, 2014 to complete fact discovery.
See proposed Civil Case Management Plan attached.

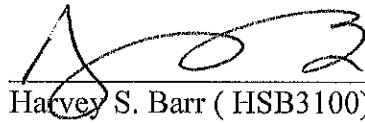
6. Virtually no settlement discussions have taken place between Plaintiff and Defendants Garrett and JetLink USA. The only direct communication regarding settlement occurred on April 23, 2014 via email between Leo W. Desmond, Esq. and Harvey S. Barr, Esq.

7. The parties currently have no other information that they believe may assist the Court in advancing the case to settlement or trial.

Respectfully submitted,



Leo W. Desmond (LD6149)



Harvey S. Barr (HSB3100)

cc: Harvey S. Barr, Esq. (via ECF)
A. Michael Furman, Esq. (via ECF)